

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

DAVISON DESIGN & )  
DEVELOPMENT, INC. , )  
*Plaintiff* )  
v. ) CA No. 2:23-cv-644  
MARIO SCORZA, )  
*Defendant*. ) Judge Marilyn J. Horan

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**Defendant's Exhibit 2**

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## PRE-DEVELOPMENT AND REPRESENTATION

**BY AND BETWEEN** Mario Scorza, an adult individual residing at, 612 Highland St West, TX 76691 hereinafter referred to as "Client" and Davison Design & Development, Inc., a Pennsylvania Corporation having its principal place of business at 595 Alpha Drive, Pittsburgh, Pennsylvania 15238.

### I. Davison's Obligations

**A. Representation Services.** Davison will submit Client's Product to a Licensee, the identity of which shall be agreed upon between Client and Davison, with the intention of entering into a License Agreement. Davison will not communicate with a Licensee concerning details of Client's Product, nor may such communication be required, until Client and Davison agree upon the final design of the product.

Davison's obligations under this paragraph expire six months after the execution of this agreement by Client. However, if Client contracts with Davison for design and product sample preparation services, which are not covered by this Agreement, Davison's obligations under this paragraph will expire six months after Davison and Client agree on the final design of the product.

**Davison is exclusively responsible for the costs associated with presenting the Product to a Licensee, which costs do not include designing, building or refurbishing a product sample.**

Davison, in its sole discretion, will determine the method of communication with a Licensee concerning Client's Product, which depends largely upon the practices and preferences of the Licensee. Typically, presentation first involves emailed or mailed design images and communication is conducted primarily via telephone. A sample is shipped only upon request of a Licensee. Unless a Licensee proposes a License Agreement or wants to discuss possible changes to the product, few Licensees provide written feedback or responses to a licensing presentation.

### B. Pre-Development Services

#### 1. Product Related Data:

**Davison will perform an industry product review.**

This information illustrates how corporations are advertising, packaging and marketing their products. Although extensive, this may not reveal every product for sale or under development world-wide.

#### 2. Patent Review:

**Davison will conduct a patent review for use during brainstorming, design and product planning sessions. This is not a search to determine patentability.**

#### 3. Corporation Review:

**Davison will identify a corporation for you to consider as a target for presentation.**

This information will be provided and discussed separately from the other Pre-Development materials.

#### 4. Product Planning Sessions:

A New Product Director assigned to this project will continue discussions of "TRAVA-WEIGH" with Client



brainstorming, development options and corporate contact information.

**5. Portfolio:**

The Pre-Development Services will take approximately four to six weeks to complete. Once finished, the product related data and patent review data will be assembled and delivered to Client in an Idea to Product Portfolio. The Portfolio data may be delivered to Client in hard copy, CD, DVD or email format, at Davison's option.

**6. Provisional Application for Patent Filing Payment:**

Within three days from the date of Davison's receipt of client's execution of this Agreement and full payment, Davison will provide to Client a USPTO Provisional Application for Patent Coversheet (USPTO Form PTO/SB/16) and a Certification of Micro Entity Status (USPTO Form PTO/SB/15A). If Client completes a Provisional Application for Patent and provides to Davison the completed application, including all supporting documents, Davison will mail the application to the USPTO along with the micro entity filing fee, which is currently \$65.00. If Client does not provide a Certification of Micro Entity Status, Davison will cover only the amount of the filing fee that would apply to a micro entity and Client must pay the balance of the filing fee to Davison before the application will be mailed. Client is solely responsible for the sufficiency and completeness of any application and supporting documents. Davison will not perform any review or correction of any documents provided by Client. The USPTO describes a Provisional Application for Patent as having the following features:

- a. Provides simplified filing with 12 months to assess the invention's commercial potential.
- b. Establishes official United States patent application filing date for the invention.
- c. Permits authorized use of "Patent Pending" notice for 12 months in connection with the description of the invention.
- d. Enables immediate commercial promotion of invention with greater security against having the invention stolen.

## II. Client's Obligations

### A. Consideration

The fee is \$795.00. Client shall select one of the following three Options. Under any Option, Client must pay in full prior to the performance of any services by Davison. In the event that Client does not indicate a choice of option, Client agrees to be deemed to have chosen Option 3.

- Option 1: **\$745.00** (includes \$50.00 savings) shall be paid within 15 days of the contract date.
- Option 2: **\$100.00** retainer. The remaining \$670.00 (after \$25.00 savings) paid within 30 days of contract date.
- Option 3: \$\_\_\_\_\_.\_\_\_\_ retainer. The remaining balance to be paid in future payments at Client's pace.

If Client exceeds 15 days to pay in Option 1 or 30 days in Option 2, they will automatically default to the next descending Option. In addition to Option 1, 2 or 3, Client grants Davison ten percent of Client's interest



in any payments realized by Client as a result of the sale or license of the Product to a Licensee. Payment of the ten percent interest to Davison is due when consideration is due to Client as a result of Davison's direct or indirect contact and efforts with a Licensee. Davison's ten percent interest in payments due to Client is applicable only to payments to Client in excess of any fees paid by Client to Davison for services under this and any other contract. Davison is authorized by Client to require a Licensee to pay directly to Davison the ten percent interest granted to Davison under this Agreement. Nothing in this agreement changes legal title to the product or design. "Contract Date" is the date appearing next to the signature of Davison's representative on this Agreement.

**B. Product Samples; Approvals. Client is responsible for obtaining a product sample, packaging and relevant information about the product in a professional format for presentation to a Licensee, at Client's sole expense.**

Davison, at its option, will offer to provide further development services, under a separate contract for a separate fee, to assist in obtaining or creating the sample, packaging and presentation material for the targeted Licensee. Client is aware that he or she is free to obtain such materials elsewhere or not to obtain them at all. However, materials obtained elsewhere or made by Client are subject to Davison's approval prior to submission to a Licensee by Davison. If Davison does not approve the materials made by Client or obtained elsewhere by Client, and Client is unwilling to make such changes to the materials as required by Davison, or if Client does not make or obtain presentation materials, packaging and a sample acceptable to Davison, this Agreement will be terminated without refund of any amount paid by Client. Davison is not responsible for applying for or obtaining any intellectual property protections on the Product or Design, including but not limited to patents, trademarks and trade names.

### III. Other Terms

**A. Definitions.**

For this agreement, the terms defined below have the following meanings: a) "Design" shall mean the plans, processes and methods for manufacture and/or utilization of the Product. b) "Product" shall mean that item or items named above originally brought to Davison by Client, which are the subject of this and other possible agreements by and between Davison and Client. The term includes both Client's initial concept and all intermediate and final designs. c) "License Agreement" shall mean a separate agreement between Client (or Client and Davison) as one party and a Licensee as the other party. d) "Contract Term" shall be in perpetuity so long as the "License Agreement" was entered into as a result of Davison's direct or indirect contact and efforts with a Licensee. e) "Licensee" shall mean any individual, corporation, partnership or other entity to which Client's Product is offered for license or sale.

**B. Complete Agreement; Choice of Law.**

This Agreement shall be governed by the law of the Commonwealth of Pennsylvania and is deemed to be executed, entered into and performed in Pittsburgh, Pennsylvania. This agreement contains the entire agreement between the parties, particularly as it pertains to the attempt to have the Product or Design



licensed or sold to a Licensee. This agreement may not be released, discharged, abandoned, changed, or modified in any manner except as provided herein or by separate instrument in writing signed by all parties.

**C. Disputes; Arbitration.**

For any dispute, the parties agree to seek to resolve the dispute through good faith negotiation. For any dispute not resolved through good faith negotiation, the parties agree that all disputes shall be resolved through arbitration before the American Arbitration Association ("AAA") in Pittsburgh, Pennsylvania using the Commercial Arbitration Rules in effect on the date that the claim is submitted to the AAA. A decision of the arbitrator may be entered as a judgment in any court having appropriate jurisdiction. Client agrees that any claim must be brought in an individual capacity, and not as a plaintiff or class member in any purported class or representative proceeding.

**D. Disclaimers.**

Client acknowledges that Davison has made no claim or warranty that Davison will be able to consummate a License Agreement, or find a Licensee willing to compensate Client for his or her Product and/or Design. Client acknowledges that Davison has not made any representations concerning the potential of Client's Product to be marketed, licensed, patented or to make a profit for Client. Davison has not evaluated the Product; thus, its agreement to accept an interest in future potential payments due to Client is not a representation by Davison that the development of the Product will yield payments to Client. Davison is not responsible for any lost or damaged product samples, prototypes or any other materials submitted to Davison by Client. Except as described in paragraph I.B.6., Davison is not responsible for applying for, assisting with, or obtaining any intellectual property protections on the Product or Design, including but not limited to patents, trademarks and trade names.

**E. Client Materials.**

Davison is not responsible for the loss, maintenance or return of prototypes, drawings or any other materials submitted by Client to Davison.

**F. Commercial Purpose.**

Client acknowledges that he/she is contracting for Davison's representation and Pre-Development services for the business purpose of developing Client's idea commercially and not for any personal, household or family purpose.



#### **G. Texas law.**

Although Pennsylvania law applies to this contract, certain contractual provisions required by Texas law are observed as a courtesy to Client. Those provisions are incorporated herein. Such provisions are to be read and construed to not contradict the provisions set forth above. However, if there is a direct conflict, then the provisions of the terms required by Texas law take precedence, but only to the extent of such direct conflict and all other provisions not in direct conflict remain in effect.

**1. Client is to pay Davison the sum of \$795.00 no earlier than four business days after receiving an executed copy of this agreement. In addition, Davison is entitled to the ten percent commission it is otherwise entitled to herein.**

**Until the payment for invention development services is made, the parties to a contract for invention development services have the option to terminate the contract. The Client may exercise the option by refraining from making payment to Davison. Davison may exercise the option to terminate by giving to the Client a written notice of its exercise of the option. The written notice becomes effective on its receipt by the customer.**

**2. Davison has no obligation hereunder to construct, sell, or distribute one or more prototypes, models, or devices embodying the Client's invention.**

**3. Davison may subcontract the performance of some of the services hereunder to Inventionland, LLC.**

**4. There have been no oral or written representations of estimated or projected client earnings.**

**5. The complete corporate name of Davison is Davison Design and Development, Inc. George Crompton, Esq., Davison's General Counsel, 595 Alpha Drive, Pittsburgh, PA 15238, or his designee, shall be the custodian of all records and correspondence pertaining to the services for which the contract is made.**

**6. Davison is required to maintain all records and correspondence relating to performance of the services for Client until the second anniversary of the date of the expiration of the contract for services. On seven days written notice Davison will make the service records and correspondence available to Client or Client's representative for review and copying at Client's reasonable expense on Davison's premises during normal business hours.**



**7. Davison will complete its minimum services hereunder within six months after the execution of this agreement. However, this does not contradict the form contract into which this is incorporated. Davison is entitled to receive its contingent fee for License Agreements and/or sale of product idea or design even where such occurs more than six months following the execution of this agreement.**

The revocation provision of this Agreement is the only means of cancelling this Agreement and obtaining a refund. If the Agreement is cancelled, revoked or terminated after the three business day period, there will be no refund of any amount paid towards the contract fee.

**The four working day period during which you may cancel this contract for any reason by mailing or delivering written notice to the invention developer will expire on the fourth working day after you sign this Agreement. If you choose to mail your notice, it must be placed in the United States mail addressed to Davison Design & Development, Inc., at 595 Alpha Drive, Pittsburgh, Pennsylvania 15238 with first class postage prepaid before midnight of this date. If you choose to personally deliver your notice to the invention developer, it must be delivered by the end of the developer's normal business day on this date.**

Mario Scorz  
612 Highland St  
West, TX 76691  
TRAVA-WEIGH

Date

Check #

Credit/Debit Card #

Security Code      Expiration Date

VISA   
Discover

Master Card   
American Express

Name as it appears on card

  
Larry Rifkin  
Director of New Products  
For Davison

January 12, 2017

Date

Cardholder's billing address

Cardholder's Signature



### ART. 9020 SEC.5(b) NOTICE - TEXAS

It is Davison's normal practice to seek more than one contract in connection with an invention, or to seek to perform services in connection with an invention in more than one phase with the performance of each phase covered in one or more subsequent contracts. They are:

- a. "Pre-Development and Representation" - Please refer to the attached pages wherein the services are described in full. In summary, Davison will: (a) provide to Client information on products and patents relevant to the development of Client.s product idea; (b) attempt to locate a licensee for Client.s product idea after it is fully developed. Davison normally charges a flat fee of \$795.00 plus a ten percent commission of all royalties or other fees paid by a corporation pursuant to a License Agreement or ten percent of any fee paid by a corporation for the purchase of a product and/or its design.
- b. Types of Second Phase Agreements- Depending upon the degree of client preparation and the difficulty of the concept, Davison typically offers either (a) "New Product Sample Agreement"- Davison offers to professionally design and construct a product sample, graphics, packaging and presentation materials; (b) "Integrated Product Rendering Agreement" - Davison offers to prepare design images and graphics suitable for presentation of the idea; or (c) "New Application Service Agreement" - Davison offers to develop a mobile application for submission to a publisher of applications of for use in conjunction with a developed product; (d) "Custom Agreement" - Davison offers to perform services in one or more areas of video, design work, graphics or package preparation. While the fees for these services are individually quoted based upon the complexity, type and anticipated design work and materials to be used in designing and constructing the invention, the fees typically range from eight thousand dollars (\$8,000) to fifteen thousand dollars (\$15,000).
- c. "Inventomercial" - Davison may offer to prepare a video demonstration of the product sample or concept for two-thousand four hundred and ninety-five dollars (\$2,495).
- d. "Additional Presentation/Repackaging/Refurbishment" - Davison offers to present the product idea to additional potential licensees, this service includes the creation of an additional set of graphics and, if necessary, refurbish/repair the product sample and packaging. The fee for this service is normally \$395.00.
- e. "Representation Agreement" - Clients who have quantities of professionally manufactured products and are looking for licensing or distribution channels may be offered this service in lieu of all other services. The service includes targeting potential corporations, presenting the product to potential licensees or distributors, as requested, and attempting to negotiate agreements for the license or distribution of the manufactured product. The fee is typically five thousand, nine hundred and fifty dollars (\$5,950) plus a ten percent commission on all money received by the client on the sale or license of the product.



**Necessity of Pre-Development Services**

Davison views Pre-Development to be integral to our exclusive process. It is our opinion that Pre-Development is necessary before proceeding to the step of product sample design and development and attempting to obtain a license agreement with a corporation. It is Davison's policy to require that Pre-Development be performed prior to moving forward toward licensing. Should you not wish to purchase Pre-Development, you may still be able to secure a license, either on your own or with the assistance of another party, but Davison will refuse to work with you to develop your product idea.

Thank you and please call your Director of New Products as soon as you receive this information.

Sincerely,

G. Davison  
Founder and CEO